

**SEALED**

1 PAUL C. RAY, ESQ.  
Nevada Bar No. 4365  
2 GERARD DONDERO, ESQ.  
Nevada Bar no. 13107  
3 PAUL C. RAY, CHTD.  
8670 West Cheyenne Avenue Suite 130  
4 Las Vegas, NV 89129  
Telephone: (702) 823-2292  
5 Facsimile: (702) 823-2384  
Email: [paulcraylaw@gmail.com](mailto:paulcraylaw@gmail.com)

<input checked="checked" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
AUG 24 2015	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

7 Attorneys for Relator Cheryl Nolte

8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10  
11 UNITED STATES OF AMERICA  
*ex rel.*  
12 Cheryl Nolte

13 Plaintiffs,

14 vs.

15 CLARK COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF  
16 NEVADA; THE CLARK COUNTY  
DEPARTMENT OF AVIATION; AND  
17 MCCARRAN INTERNATIONAL AIRPORT,

18 Defendants

Case No.

**FILED UNDER SEAL PURSUANT TO  
31 U.S.C. § 3730(b)(2)**

**DO NOT PLACE IN PRESS BOX  
DO NOT ENTER ON PACER**

**2:15-cv-01621-JCM-VCF**

23 **FALSE CLAIMS ACT COMPLAINT AND DEMAND FOR JURY TRIAL**

24 **Introduction**

25 1. Cheryl Nolte (the "Relator") brings this action on behalf of the United States of  
26 America against defendants for treble damages and civil penalties arising from the defendants'  
27 false statements and false claims in violation of the Civil False Claims Act, 31 U.S.C. §§ 3729 *et*  
28 *seq.* The violations arise out of false assurances and certifications in grant applications failing to

## JURISDICTION AND VENUE

4. Venue is proper in this District pursuant to 31 U.S.C. § 3732(a) because the acts proscribed by 31 U.S.C. 3729 *et seq.* and complained of herein took place in this district, and is also proper pursuant to 28 U.S.C. § 1391(b) and (c) because at all times material and relevant, defendants transact and transacted business in this District. Venue is further proper because the false assurances were made in Nevada, and the Defendants are located solely in Clark County, Nevada.

5. Relator Cheryl Nolte is a citizen of the United States and a resident of the State of Arizona. From 1993 to the present Relator has been involved directly or indirectly by ownership of general partnerships located in Nevada called CEH Properties, Ltd. ("CEH") and North American Properties ("NAP"), both of which have been at various times during the entire period of years from 1993 to the present in inverse condemnation litigation against or involving the defendants.

-2-

1 direct and independent knowledge of the information on which the allegations are based and  
2 voluntarily provided the information to the Government before filing an action under the False  
3 Claims Act which is based on the information.

4 7. Defendant Clark County is a political subdivision of the State of Nevada, which  
5 enacted height restriction ordinances which effectuated takings of airspace property belonging to  
6 Relator's partnerships and other airspace property belonging to others.

7 8. Defendant Clark County Department of Aviation ("DOA") is an enterprise fund  
8 in the State of Nevada which enters into airport improvement grant agreements with the United  
9 States for the development of airports in Clark County, Nevada.

10 9. Defendant McCarran International Airport ("McCarran") is an airport operated by  
11 the DOA in Clark County Nevada which sought federal funds from the Federal Aviation  
12 Administration ("FAA") for development of its airport operations.

13 **FACTUAL ALLEGATIONS**

14 10. At all relevant times Relator Cheryl Nolte held a percentage of her family's  
15 ownership of CEH, which from the late 1980's through the late 1990's owned property on the  
16 south Las Vegas Strip near Sunset Road and Las Vegas Boulevard where CEH was developing  
17 their family's dream project called the Vacation Village Hotel and Casino ("Vacation Village"),  
18 which was eventually sold in a bankruptcy reorganization in 2001. If Clark County would have  
19 paid just compensation for the airspace taken from the Vacation Village property at the time,  
20 they should not have had to lose their long-time investment in the property.

21 11. In 1990 Clark County enacted Ordinance 1221, which restricts construction  
22 heights of buildings on property located in certain areas or zones designated by Airspace Zoning  
23 Maps adopted by Ordinance 1221, including the parcel upon which the Vacation Village was  
24 located (the "Vacation Village property") so that airplanes flying at McCarran may use the  
25 airspace reserved on an approach surface sloping horizontally fifty feet from the runway for  
26 every one foot vertically (50:1).

27 12. On or about December 17, 1993 CEH filed a complaint against Clark  
28

1 County and the DOA for, among other things, just compensation from takings of CEH's airspace  
2 by inverse condemnation in Case No. A328450 in the Eighth Judicial District Court, Clark  
3 County, Nevada.

4 13. On or about December 15, 1998 Case No. A328450 was removed as an adversary  
5 proceeding to the U.S. Bankruptcy Court, District of Nevada as Adversary Proceeding No. 98-  
6 2313, in which trial was held from April 4 through April 18, 2002 over five separate days, after  
7 which the bankruptcy court reserved its ruling.

8 14. The District Court for the District of Nevada withdrew the reference of the  
9 adversary proceeding to the district court as Case No. CV-S-05-0010-RCJ on January 4, 2005,  
10 and the district court entered on July 7, 2005 its final judgment of condemnation by Clark  
11 County of CEH's airspace.

12 15. Clark County appealed the judgment to the Ninth Circuit Court of Appeals, and  
13 CEH cross-appealed, which resulted in the affirmance in part as to the taking and reversal in part  
14 as to the amount of the award of just compensation of the district court's judgment of  
15 condemnation in the published case of *Vacation Village, Inc. v. Clark County*, 497 F.3d 902 (9th  
16 Cir. 2007), cert. denied, at 554 U.S. 917 (2008) . The remand proceedings concluded in 2009  
17 following increase of the award.

18 16. During the pendency of the nearly sixteen years of CEH's case, Clark County  
19 adopted Ordinance 1599, which further restricts construction heights in the area designated on a  
20 map adopted by Ordinance 1599 called the Aircraft Departure Critical Area ("ADCA") so that  
21 planes flying at McCarran may use that airspace sloping eighty feet horizontally for every one  
22 foot vertically (80:1) as well. Clark County, the DOA and McCarran also extended McCarran's  
23 north-south runway 1L/19R from 5,100 to 9,770 feet.

24 17. Also during the pendency of CEH's airspace takings case several other  
25 landowners whose airspace was reserved for flight by planes at McCarran filed inverse  
26 condemnation complaints for just compensation, and two other published cases, *McCarran Int'l*  
27 *Airport v. Sisolak*, 122 Nev. 645, 137 P.3d 1110 (2006), cert. denied, 549 U.S. 1206 (2007)  
28 (affirming that "the district court properly concluded that a county height restriction ordinance

1 effected a 'per se' taking of the airspace above private land that is located within the departure  
 2 critical area of an airport approach zone"), and *Hsu v. County of Clark*, 123 Nev. 625, 173 P.3d  
 3 724 (2007), also concluded that Clark County Ordinances 1221 and 1599 constituted takings for  
 4 which Clark County must pay just compensation.

5 18. Although Clark County had **never**:

- 6 a. given any landowner advance notice of intent to take airspace restricted by
- 7 these ordinances;
- 8 b. obtained an appraisal for airspace taken by Ordinance 1221 or by Ordinance
- 9 1599;
- 10 c. acquired any of the airspace by adverse possession;
- 11 d. offered to pay any landowner of airspace taken for the appraised amount;
- 12 e. filed a condemnation action under the procedure required by NRS 37.060; or
- 13 f. paid any landowner just compensation under the Fifth Amendment or any
- 14 amount for the airspace taken by Ordinance 1221 and by Ordinance 1599
- 15 without requiring the landowner to file an inverse condemnation complaint,

16 Clark County began to assert the 15-year statute of limitations as a defense under White Pine  
 17 Lumber v. City of Reno, 106 Nev. 778, 801 P.2d 1370 (1990), for inverse condemnation  
 18 complaints of airspace takings by ordinance 1221 filed after 2005.

19 19. On July 6, 2009 NAP filed an inverse condemnation complaint in the Eighth  
 20 Judicial District Court, Clark County, Nevada, Case No. A594649, for Clark County's taking of  
 21 NAP's airspace by enactment of Ordinance 1221 and of Ordinance 1599 when NAP owned the  
 22 property located in the ADCA, which is entirely included within the approach zone of Ordinance  
 23 1221. As was typical in these inverse condemnation airspace cases, Clark County denied that  
 24 any taking occurred and required NAP to litigate to prove the taking and vigorously litigated  
 25 against NAP's claim for just compensation.

26 20. Clark County also asserted a limitations defense against NAP's airspace takings  
 27  
 28

1 claim under Ordinance 1221 enacted in 1990, which the district court dismissed, while granting  
2 partial summary judgment because of NAP's ownership at the time of enactment of Ordinance  
3 1599 in 1994.

4 21. Many months after failing to dispute NAP's ownership of the property at the time  
5 of taking, Clark County developed a theory near the close of discovery that perhaps NAP  
6 might not actually have owned the property at the time of enactment of Ordinance 1599 in 1994,  
7 ultimately persuading the district court to grant summary judgment against NAP for lack of  
8 standing by setting aside its prior partial summary judgment and to apply an adverse inference  
9 against NAP based on information presented to the court at an ex parte hearing, which the court  
10 did not allow NAP to attend, despite NAP's request to attend.

11 22. Notably, Clark County never indicated who the owner of the property was, if it  
12 was not NAP, showing that Clark County's dispute with paying NAP just compensation was not  
13 out of concern of double payment, but was rather out of intent to avoid any payment of just  
14 compensation for the airspace taken.

15 23. NAP argues in its appeal to the Supreme Court of Nevada, Case No. 61997 that  
16 NAP was the owner at the time of taking and that Clark County is mainly trying to avoid  
17 payment of just compensation. But whether or not NAP prevails in its appeal, Clark County has  
18 denied taking the airspace of the property within the ADCA, which the Supreme Court of  
19 Nevada held was a taking in *Sisolak*, and Clark County has not made any attempt to notify any  
20 landowner of the right to paid just compensation for the taking, even if Clark County were to  
21 prevail in the appeal.

22 24. Thus, to the current date of the filing of this complaint, Clark County keeps its  
23 perfect record intact of having **never**:

- 24 a. given any landowner advance notice of intent to take airspace restricted by
- 25 these ordinances;
- 26 b. obtained an appraisal for airspace taken by Ordinance 1221 or by
- 27 Ordinance 1599;
- 28 c. acquired any of the airspace by adverse possession;

1           d.       offered to pay any landowner of airspace taken for the appraised amount;  
 2           e.       filed a condemnation action under the procedure required by NRS 37.060;  
 3           or  
 4           f.       paid any landowner just compensation under the Fifth Amendment or any  
 5           amount for the airspace taken by Ordinance 1221 and by Ordinance 1599 without  
 6           requiring the landowner to file an inverse condemnation complaint,  
 7 while spending more than \$6 million litigating against landowners' inverse condemnation  
 8 complaints for airspace takings from Ordinance 1221 and Ordinance 1599.

9           25. Clark County's systematic, intentional strategy of requiring landowners to initiate  
 10           inverse condemnation complaints rather than:

11           a.       providing advance notice of Clark County's intent to take the airspace which  
 12           Clark County compelled the landowners to acquiesce to the physical invasion  
 13           of their property held to be a taking under *Sisolak, Vacation Village*, and *Hsu*;  
 14           b.       without obtaining an appraisal;  
 15           c.       without offering to pay any landowner of airspace taken for the appraised  
 16           amount; without filing a condemnation action under the required procedure of  
 17           NRS Chapter 37, including but not limited to 37.060; and  
 18           d.       paying any landowner just compensation under the Fifth Amendment or any  
 19           amount for the airspace taken by Ordinance 1221 and by Ordinance 1599  
 20           without requiring the landowner to file an inverse condemnation complaint

21 is a violation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act  
 22 of 1970 ("Relocation Act"), § 304(c), 42 U.S.C.A. § 4601 *et seq.*, including but not limited to §  
 23 4651 as to at least each property taken within the ADCA for each part of the Relocation Act  
 24 violated, including but not limited to §4651, subsections (1) through (10).

25           26. The airspace required by Clark County and the DOA to operate McCarran is  
 26 integral to the entire airport operation, including all improvements. *Griggs v. Allegheny Cnty.*,  
 27 *Pa.*, 369 U.S. 84, 89-90, 82 S. Ct. 531, 534, 7 L. Ed. 2d 585 (1962). ("[A] county that designed  
 28 and constructed a bridge would not have a usable facility unless it had at least an easement over



1 the land necessary for the approaches to the bridge.” And consequently, “the glide path for the  
2 [runway] is as necessary for the operation of the airport as is a surface right of way for operation  
3 of a bridge, or as is the land for the operation of a dam.” Id.)

4 27. Clark County, the DOA and McCarran intentionally made false certifications and  
5 false assurance of compliance with the Relocation Act since taking airspace by enactment of  
6 Ordinance 1599 each time they entered into a federal grant agreement with the United States  
7 under the FAA’s Airport Improvement Program, including but not limited to:

- 8 a. Project 3-32-0012-57 for \$15,233,688 on or about August 23, 2005;
- 9 b. Project 3-32-0012-58 for \$4,861,973 on or about August 30, 2005;
- 10 c. Project 3-32-0012-59 for \$7,000,000 on or about August 30, 2005;
- 11 d. Project 3-32-0012-60 for \$10,743,257 on or about August 14, 2006;
- 12 e. Project 3-32-0012-61 for \$1,077,286 on or about August 14, 2006;
- 13 f. Project 3-32-0012-62 for \$17,618,533 on or about July 25, 2007 including the  
14 May 2007 “Terms and conditions of Accepting Airport Improvement Program  
15 Grant signed on July 27, 2007;
- 16 g. Project 3-32-0012-63 for \$2,124,233 on or about September 27, 2007  
17 including the May 2007 “Terms and conditions of Accepting Airport  
18 Improvement Program Grants signed on July 27, 2007;
- 19 h. Project 3-32-0012-64 for \$21,724,333 believed to be dated on or about June  
20 26, 2008 including the May 2007 “Terms and conditions of Accepting Airport  
21 Improvement Program Grant signed on July 27, 2007;
- 22 i. Project 3-32-0012-65 for \$3,500,000 believed to be dated on or about June  
23 23, 2008 including the May 2007 “Terms and conditions of Accepting Airport  
24 Improvement Program Grants signed on July 27, 2007;
- 25 j. Project 3-32-0012-66 for an unknown amount believed to be dated between  
26 September 27, 2007 and September 17, 2008;

- k. Project 3-32-0012-67 for \$1,705,941 on or about September 17, 2008 including the May 2007 "Terms and conditions of Accepting Airport Improvement Program Grants signed on July 27, 2007;
- l. Project 3-32-0012-68 for \$2,074,974 on or about February 18, 2009 including the May 2007 "Terms and conditions of Accepting Airport Improvement Program Grants signed on July 27, 2007;
- m. Project 3-32-0012-69 for \$,223,932 on or about August 13, 2009 including the May 2007 "Terms and conditions of Accepting Airport Improvement Program Grants signed on July 27, 2007;
- n. Project 3-32-0012-70 for \$8,902,500 on or about September 24, 2009 including the May 2007 "Terms and conditions of Accepting Airport Improvement Program Grant signed on July 27, 2007;
- o. Project 3-32-0012-71 for \$70 000 on or about September 17, 2009 including the May 2007 "Terms and conditions of Accepting Airport Improvement Program Grant signed on July 27, 2007;
- p. Project 3-32-0012-72 for \$4,112,116 on or about September 24, 2009 including the May 2007 "Terms and conditions of Accepting Airport Improvement Program Grant signed on July 27, 2007 ;
- q. Project 3-32-0012-73 for \$11,632,903 on or about July 22, 2010 including the May 2007 "Terms and conditions of Accepting Airport Improvement Program Grant signed on July 27, 2007;
- r. Project 3-32-0012-74 for \$1,077,019 on or about August 26, 2010 including the May 2007 "Terms and conditions of Accepting Airport Improvement Program Grant signed on July 27, 2007;
- s. Project 3-32-0012-75 for \$2,812,500 on or about September 17, 2010 including the May 2007 "Terms and conditions of Accepting Airport Improvement Program Grant signed on July 27, 2007;
- t. Project 3-32-0012-76 for \$8,371,313 in or about September 2011;

- 1 u. Project 3-32-0012-77 for \$10,489,054 in or about June 2011;
- 2 v. Project 3-32-0012-78 for \$8,464,336 in or about September 2011;
- 3 w. Project 3-32-0012-79 for \$468,087 in or about September 2012;
- 4 x. Project 3-32-0012-80 for \$17,816,857 in or about July 2012;
- 5 y. Project 3-32-0012-81 for an unknown amount believed to be dated between
- 6 September 2011 and October 2014;
- 7 z. Project 3-32-0012-82 for \$26,123,551 in or about September 2014; and
- 8 aa. All Project Numbers and AIP projects of Clark County, the DOA and
- 9 McCarran in unknown amounts since Project 3-32-0012-82 to the present.

10 28. Clark County, the DOA and McCarran also submitted false certifications and  
 11 assurances of compliance with the Relocation Act each time they submitted for approval by the  
 12 FAA a Passenger Facility Charge ("PFC") application or amendment since taking airspace by  
 13 enactment of Ordinance 1599, including but not limited to PFC Application No. 92-01-C-00-  
 14 LAS and PFC Application No. 01 as previously amended, to impose, use or impose and use  
 15 PFCs in the amount of \$718,316,744 plus all allowed debt service, including but not limited to  
 16 all PFC applications such as are referenced in a letter dated May 22, 2006 from Randal H.  
 17 Walker, Director of Aviation for Clark County, the DOA and McCarran to Mr. Joe Rodriguez,  
 18 Supervisor, Planning and Programming for the FAA and as to any and all subsequent PFC  
 19 applications by Clark County, the DOA and McCarran.

20 29. In each of its grant agreements Clark County also certifies its assurance of  
 21 compliance with Federal Aviation Administration ("FAA") Advisory Circular AC 150-5300-13  
 22 on Airport Design, which states at § 201(a):

23 (1) Existing and planned airspace required for safe and efficient aircraft  
 24 operations should be protected by acquisition of a combination of zoning,  
 25 easements, property interests, and other means. AC 150/5190-4, A Model Zoning  
 Ordinance to Limit Height of Objects Around Airports, presents guidance for  
 controlling the height of objects around airports.

26 (2) All other existing and planned airport elements, including the following,  
 27 should be on airport property: (a) Object free areas; (b) Runway protection zones;  
 28 (c) Areas under the 14 CFR Part 77 Subpart C airport imaginary surfaces out to  
where the surfaces obtain a height of at least 35 feet (10m) above the primary

1 surface; and (d) Areas, other than those which can be adequately controlled by  
2 zoning, easements, or other means to mitigate potential incompatible land uses.

3 (Emphasis added.) In providing such assurances in its grant agreements Clark County  
4 recognizes its obligation to acquire height restricted areas modeled after 14 CFR Part 77  
5 up to a level of at least 35 feet.

6 30. In 1987 the FAA issued its Advisory Circular No. 150/5190-4A, "A Model  
7 Zoning Ordinance to Limit Height of Objects Around Airports" (the FAA's "Model Zoning  
8 Ordinance"). The FAA makes clear in Advisory Circular No. AC 150/5190-4A that the Model  
9 Zoning Ordinance is not to be used to effectuate takings, to avoid the requirement to pay just  
10 compensation for takings or to avoid the requirements of the Relocation Act for property  
11 acquisition procedures. Section 5, Use of Model Zoning Ordinance, states in pertinent part as  
12 follows:

13 \* \* \*

14 d. Any height limitations imposed by a zoning ordinance must be "reasonable,"  
15 meaning that **the height limitations prescribed should not be so low at any  
point as to constitute a taking of property without compensations under local  
law.**

16 \* \* \*

17 f. Areas in the various zones where the height limitation is below the excepted  
18 height limit prescribed in the ordinance should be acquired to ensure the required  
19 protection. In the approach area, **the minimum acquisition** begins at the end of  
20 the primary surface defined in FAR Part 77, Section 77.25, and **extends** outward  
with the width of the approach surface defined in that section, **to a point where  
the approach surface slope reaches a height of 50 feet above the ground  
elevation** of the runway or terrain, whichever distance is the shorter.

21 (Emphasis added.) The Model Zoning Ordinance requires the airport operator to acquire at a  
22 minimum all of the area beneath the approach surface of the local land use zoning regulation for  
23 heights of construction from the end of the runway to the point where the approach surface  
24 reaches a height of 50 feet and to refrain from any taking without payment of just compensation,  
25 under local law, which in Nevada includes NRS 342.105 and the Relocation Act and compliance  
26 with NRS Chapter 37 on Eminent Domain, including the filing of a condemnation action where  
27 appraisal, offer and negotiation process have been attempted but have not succeeded in  
28 completing the acquisition process.

1           31. Clark County, the DOA and McCarran have recognized from 1990s to the  
2 present what can be done with the value of the airspace taken by enactment of Ordinance 1221  
3 and Ordinance 1599 as follows:

4           a. Clark County included as Appendix A to its 1994 Staff Report in support of  
5 Ordinance 1599 a Capacity Enhancement Plan, which valued Clark County's  
6 annual delay cost savings at \$632 million over the "Do Nothing" scenario;

7           b. In its 2007 certiorari petition to the Supreme Court in the Vacation Village  
8 case, Clark County, appearing as the owner and operator of McCarran, argued  
9 that the Court should grant certiorari because the takings rulings implicated an  
10 amount exceeding "\$10 *billion*" (italics in original);

11           c. Clark County advertised in 2011 that it built a \$3 billion Terminal 3 project  
12 from McCarran's revenue without costing the taxpayers a cent;

13           d. Clark County set aside reserves of \$700 million for airspace takings claims;  
14 and

15           e. In 2015 McCarran posted a neon sign in the first, most heavily traveled  
16 baggage area, stating, "AIRPORTS MEAN BUSINESS. McCarran International  
17 Airport contributes nearly \$30 *billion* a year to the local economy." (Italics in  
18 original.)

19           32. Clark County, the DOA and McCarran had actual knowledge or were in  
20 reckless disregard to the truth of the fact that their certifications and assurances of compliance  
21 with the Relocation Act, AC 150-5300-13 and AC 5190-4A were all false.

22  
23 ///

## 24 25 COUNT 1

### 26 False Certifications of Compliance With the Relocation Act, AC 150-5300-13, AC 5190-4A 27 To Obtain Grant Funding

28           33. Relator Nolte re-alleges and incorporates the allegations of the previous

1 paragraphs as if fully set forth herein.

2 34. Defendants have knowingly presented false or fraudulent claims for payment or  
3 approval and made, used or caused to be used, false records or statements material to false or  
4 fraudulent claims in violation of the False Claims Act, 31 U.S.C. §§ 3729 et seq., through their  
5 false certifications and assurances of compliance with the Relocation Act, AC 150-5300-13 and  
6 AC 5190-4A.

7 35. Clark County, the DOA and McCarran concealed their knowledge or their  
8 reckless disregard for the truth of their false certifications and assurances in order to obtain grant  
9 funding they would not otherwise have been able to obtain because of the Relocation Act's  
10 requirement of appraising property to be taken, offering the fully appraised value and refraining  
11 from requiring the landowners whose airspace was taken by Ordinance 1599 to file an inverse  
12 condemnation complaint to receive just compensation for property taken.

13 36. This concealment was knowingly made as Clark County, the DOA and McCarran  
14 went forward from the enactment of Ordinance 1599 in 1994 through the present, never giving  
15 advance notice of the taking of airspace; never obtaining an appraisal for airspace taken or to be  
16 taken; never offering appraised value to purchase airspace taken; never paying any landowner for  
17 airspace taken without requiring each landowner to be paid to first file an inverse condemnation  
18 complaint, which Clark county, the DOA and McCarran in each inverse condemnation case  
19 would then vigorously litigate.

20 37. This course of conduct violated the False Claims Act, 31 U.S.C. § 3729 *et seq.*

21 38. The U.S. Government, unaware of the falsity of the claims and/or statements, and  
22 in reliance on the accuracy thereof, awarded grants to Clark County for the DOA and McCarran  
23 in amounts totaling at least some \$173,000,000 plus additional amounts awarded in other grants  
24 from 2005 to the present, and the U.S. Government was damaged in at least these amounts.

25 **COUNT 2**

26 **Use of False Statements Material to False or Fraudulent Claims To Obtain**  
27 **Grant Funding**

28 39. Relator Nolte re-alleges and incorporates the allegations of the previous

1 paragraphs as if fully set forth herein.

2 40. Defendants knowingly and falsely used false statements of compliance with the  
3 Relocation Act, AC 150-5300-13 and AC 5190-4A.

4 41. Defendants made these misrepresentations to obtain grant funding to which they  
5 otherwise would not have been entitled.

6 42. This course of conduct violated the False Claims Act, 31 U.S.C. § 3729 et seq.

7 43. The U.S. Government, unaware of the falsity of the defendants' statements in the  
8 certifications and assurances, and in reliance on the accuracy thereof, was damaged in at least the  
9 amounts of the grant funding paid through these grant agreements plus additional amounts  
10 awarded in other grants from 2005 to the present.

11 **COUNT 3**

12 **False Certifications of Compliance With the Relocation Act, AC 150-5300-13,**

13 **AC 5190-4A To Obtain Approval of PFC Applications**

14 44. Relator Nolte re-alleges and incorporates the allegations of the previous  
15 paragraphs as if fully set forth herein.

16 45. Defendants have knowingly presented false or fraudulent claims for payment or  
17 approval and made, used or caused to be used, false records or statements material to false or  
18 fraudulent claims in violation of the False Claims Act, 31 U.S.C. §§ 3729 et seq., through their  
19 false certifications and assurances of compliance with the Relocation Act, AC 150-5300-13 and  
20 AC 5190-4A.

21 46. Clark County, the DOA and McCarran concealed their knowledge or their  
22 reckless disregard for the truth of their false certifications and assurances in order to obtain FAA  
23 approval of PFC applications they would not otherwise have been able to obtain because of the  
24 Relocation Act's requirement of appraising property to be taken, offering the fully appraised  
25 value and refraining from requiring the landowners whose airspace was taken by Ordinance 1599  
26 to file an inverse condemnation complaint to receive just compensation for property taken.

27 47. This concealment was knowingly made as Clark County, the DOA and McCarran  
28



1 went forward from the enactment of Ordinance 1599 in 1994 through the present, by the  
2 defendants never giving advance notice of the taking of airspace; never obtaining an appraisal for  
3 airspace taken or to be taken; never offering appraised value to purchase airspace taken; never  
4 paying any landowner for airspace taken without requiring each landowner to be paid to first file  
5 an inverse condemnation complaint, which Clark county, the DOA and McCarran in each  
6 inverse condemnation case would then vigorously litigate.

7 48. This course of conduct violated the False Claims Act, 31 U.S.C. § 3729 et seq.

8 49. The U.S. Government, unaware of the falsity of the claims and/or statements, and  
9 in reliance on the accuracy thereof, approved PFC applications by Clark County for the DOA  
10 and McCarran in amounts totaling at least some \$718,316,744 and allowed debt service plus  
11 additional amounts approved in other PFC applications from 2005 to the present, and the U.S.  
12 Government was damaged in at least these amounts.

13 **COUNT 4**

14 **Use of False Statements Material to False or Fraudulent Claims To Obtain Approval of**  
15 **PFC Applications**

16 50. Relator Nolte re-alleges and incorporates the allegations of the previous  
17 paragraphs as if fully set forth herein.

18 51. Defendants knowingly and falsely used false statements of compliance with the  
19 Relocation Act, AC 150-5300-13 and AC 5190-4A.

20 52. Defendants made these misrepresentations to obtain approval of PFC applications  
21 to which they otherwise would not have been entitled.

22 53. This course of conduct violated the False Claims Act, 31 U.S.C. § 3729 et seq.

23 54. The U.S. Government, unaware of the falsity of the defendants' statements in the  
24 certifications and assurances, and in reliance on the accuracy thereof, was damaged in at least the  
25 amounts of the approved PFC applications totaling \$718,316,744 and debt service allowed plus  
26 additional amounts awarded in other PFC applications from 2005 to the present.

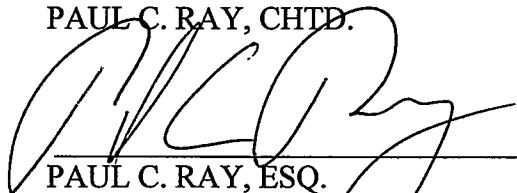
27 WHEREFORE, Relator Nolte respectfully requests this Court to enter judgment against  
28 defendants as follows:



- 1 (a) That the U.S. be awarded damages I the amount of three times the damages sustained  
2 by the U.S. because of the false claims and fraud alleged within this Complaint, as the  
3 Civil False claims Act, 31 U.S.C. § 3729 *et seq.* provides;
- 4 (b) That civil penalties of not less than \$5,000 and not more than \$10,000, as adjusted by  
5 the Federal Civil Penalties Inflation Adjustment Act of 1990 fr each and every false  
6 claim that defendants presented to the U.S.;
- 7 (c) That pre- and post-judgment interest be awarded, along with reasonable attorneys'  
8 fees, costs, and expenses which the relator necessarily incurred in bringing and pressing this  
9 case;
- 10 (d) That the Court grant permanent injunctive relief to prevent any recurrence of the  
11 False Claims Act for which redress is sought in this Complaint;
- 12 (e) That the relator be awarded the maximum amount allowed to her pursuant the  
13 False Claims Act; and
- 14 (f) That this Court award such other relief as is just and equitable.

15 DATED this 24<sup>th</sup> day of August, 2015.

16 PAUL C. RAY, CHTD.



17  
18 PAUL C. RAY, ESQ.  
19 Nevada Bar No. 4365  
20 GERARD DONDERO  
21 Nevada Bar No. 13107  
22 8670 West Cheyenne Avenue Suite 130  
23 Las Vegas, NV 89129  
24 Telephone: (702) 823-2292  
25 Facsimile: (702) 823-2384  
26 Email: [paulcraylaw@gmail.com](mailto:paulcraylaw@gmail.com)  
27 Attorneys for Relator Cheryl D. Nolte  
28

SEALED

JS 44 (Rev. 12/12)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b> <u>United States of America ex rel, Cheryl Wolfe</u>		<b>DEFENDANTS</b> <u>Clark County, et al.</u>	
<b>(b) County of Residence of First Listed Plaintiff</b> (EXCEPT IN U.S. PLAINTIFF CASES)		<b>County of Residence of First Listed Defendant</b> (IN U.S. PLAINTIFF CASES ONLY)	
<b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b> <u>Relator: Paul C. Kay, Ctld.</u> <u>8610 W. Stephanie Ave. #130</u> <u>Las Vegas, NV 89129</u> <u>(702) 823-2992</u>		<b>Attorneys (If Known)</b> <div style="border: 1px solid black; padding: 5px; text-align: center; margin: 10px auto; width: 100px;">             AUG 24 2015           </div>	

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)
---	---	--	--

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

**CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization <input type="checkbox"/> 465 Other Immigration Action
---	--	--	---

**REAL PROPERTY**  
☐ 210 Land Condemnation  
☐ 220 Foreclosure  
☐ 230 Rent Lease & Ejectment  
☐ 240 Torts to Land  
☐ 245 Tort Product Liability  
☐ 290 All Other Real Property

**CIVIL RIGHTS**  
☐ 440 Other Civil Rights  
☐ 441 Voting  
☐ 442 Employment  
☐ 443 Housing/Accommodations  
☐ 445 Amer. w/Disabilities - Employment  
☐ 446 Amer. w/Disabilities - Other  
☐ 448 Education

**PRISONER PETITIONS**  
☐ Habeas Corpus:  
☐ 463 Alien Detainee  
☐ 510 Motions to Vacate Sentence  
☐ 530 General  
☐ 535 Death Penalty  
**Other:**  
☐ 540 Mandamus & Other  
☐ 550 Civil Rights  
☐ 555 Prison Condition  
☐ 560 Civil Detainee - Conditions of Confinement

**BANKRUPTCY**  
☐ 422 Appeal 28 USC 158  
☐ 423 Withdrawal 28 USC 157  
**PROPERTY RIGHTS**  
☐ 820 Copyrights  
☐ 830 Patent  
☐ 840 Trademark  
**SOCIAL SECURITY**  
☐ 861 HIA (1395ff)  
☐ 862 Black Lung (923)  
☐ 863 DIWC/DIWW (405(g))  
☐ 864 SSID Title XVI  
☐ 865 RSI (405(g))  
**FEDERAL TAX SUITS**  
☐ 870 Taxes (U.S. Plaintiff or Defendant)  
☐ 871 IRS—Third Party 26 USC 7609

**OTHER STATUTES**  
☒ 375 False Claims Act  
☐ 400 State Reapportionment  
☐ 410 Antitrust  
☐ 430 Banks and Banking  
☐ 450 Commerce  
☐ 460 Deportation  
☐ 470 Racketeer Influenced and Corrupt Organizations  
☐ 480 Consumer Credit  
☐ 490 Cable/Sat TV  
☐ 850 Securities/Commodities/Exchange  
☐ 890 Other Statutory Actions  
☐ 891 Agricultural Acts  
☐ 893 Environmental Matters  
☐ 895 Freedom of Information Act  
☐ 896 Arbitration  
☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision  
☐ 950 Constitutionality of State Statutes

2:15-cv-01621-JCM-VCF

<b>V. ORIGIN</b> (Place an "X" in One Box Only)		<b>VI. CAUSE OF ACTION</b>	
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened
<b>CAUSE OF ACTION</b> <u>31 U.S.C. §§ 3729 et seq.</u> <u>False Claims Act, false representation to government</u>		<b>DEMANDS</b> <u>\$173,000,000 plus all amounts from</u>	
<b>VII. REQUESTED IN COMPLAINT:</b>		<b>CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.</b>	
<b>VIII. RELATED CASE(S) IF ANY</b>		<b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>DATE</b> <u>8-24-2015</u>		<b>SIGNATURE OF ATTORNEY OF RECORD</b> <u>[Signature]</u>	
<b>FOR OFFICE USE ONLY</b>		<b>DOCKET NUMBER</b>	
RECEIPT #	AMOUNT	APPLYING IFP	MAG. JUDGE

SEALED

<input checked="checked" type="checkbox"/> FILED <input type="checkbox"/> ENTERED	<input type="checkbox"/> RECEIVED <input type="checkbox"/> SERVED ON COUNSEL/PARTIES OF RECORD
AUG 24 2015	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

**2:15-cv-01621-JCM-VCF**

Court Name: District of Nevada  
Division: 2  
Receipt Number: NVLAS036472  
Cashier ID: vaglion  
Transaction Date: 08/24/2015  
Payer Name: CHERYL NOLTE - RELATOR

CIVIL FILING FEE  
For: CHERYL NOLTE - RELATOR  
Case/Party: D-NVX-2-15-CV-001621-001  
Amount: \$400.00

CREDIT CARD  
Amt Tendered: \$400.00

Total Due: \$400.00  
Total Tendered: \$400.00  
Change Amt: \$0.00

"Only when bank clears the check,  
money order, or verifies credit of  
funds is the fee or debt officially  
paid or discharged. A \$53 fee will  
be charged for a returned check."